

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Bocar Deme,	:	
	:	
Petitioner,	:	Case No. 1:19-cv-00106
	:	
vs.	:	Judge Michael R. Barrett
	:	
Secretary, Department of Homeland	:	
Security,	:	
	:	
Respondent.	:	
	:	

ORDER

This matter is before the Court on the Magistrate Judge's April 19, 2019 Report and Recommendation. (Doc. 6). On February 11, 2019, Petitioner filed an application for a writ of habeas corpus challenging his continued detention by the United States Immigration and Customs Enforcement Agency (ICE) pursuant to a final order of removal. (See Doc. 1). He argued that his continued detention was unlawful, citing in support *Zadvydas v. Davis*, 533 U.S. 678 (2001). (*Id.* at PageID 2). On March 25, 2019, respondent filed a return of the writ, indicating that petitioner was released from ICE custody on March 19, 2019 pending his removal. (See Doc. 5). Inasmuch as he is no longer in government custody, respondent maintained that petitioner's application should be denied as moot. (*Id.* at PageID 28). The Magistrate Judge agreed, noting that petitioner's March 19, 2019 release renders this civil action moot and deprives the Court of jurisdiction. (Doc. 6 at PageID 40).

Proper notice was provided to respondent under Fed. R. Civ. P. 72(b), including notice that respondent would waive further appeal if respondent failed to file objections

to the Report and Recommendation in a timely manner. *See United States v. Walters*, 638 F.2d 947, 949-950 (6th Cir. 1981). No objections have been filed by respondent. Proper notice would have been provided to petitioner but for the fact that petitioner has been released from custody. The Court will not require the Clerk to perform the futile act of sending the April 19, 2019 Report and Recommendation (and accompanying Notice) to the Butler County Jail, where petitioner had been detained,¹ in light of the testimony by Jason Edmister, ICE Deportation Officer,² of petitioner's release pending his removal.

Having conducted a de novo review, the Court ACCEPTS and ADOPTS the Magistrate Judge's April 19, 2019 Report and Recommendation (Doc. 6). Accordingly, petitioner's Petitioner for a Writ of Habeas Corpus (Doc. 1) is hereby **DENIED as MOOT.**

IT IS SO ORDERED.

/s/ Michael R. Barrett
Michael R. Barrett, Judge
United States District Court

¹ See Doc. 1 at PageID 3 ¶¶ 8, 9.

² See Doc. 5-1.